

1 Section 1. Paragraph (d) of subsection (2) of section
2 61.13, Florida Statutes, is amended to read:

3 61.13 Custody and support of children; visitation
4 rights; power of court in making orders.--

5 (2)

6 ~~(d) No presumption shall arise in favor of or against~~
7 ~~a request to relocate when a primary residential parent seeks~~
8 ~~to move the child and the move will materially affect the~~
9 ~~current schedule of contact and access with the secondary~~
10 ~~residential parent. In making a determination as to whether~~
11 ~~the primary residential parent may relocate with a child, the~~
12 ~~court must consider the following factors:~~

13 ~~1. Whether the move would be likely to improve the~~
14 ~~general quality of life for both the residential parent and~~
15 ~~the child.~~

16 ~~2. The extent to which visitation rights have been~~
17 ~~allowed and exercised.~~

18 ~~3. Whether the primary residential parent, once out of~~
19 ~~the jurisdiction, will be likely to comply with any substitute~~
20 ~~visitation arrangements.~~

21 ~~4. Whether the substitute visitation will be adequate~~
22 ~~to foster a continuing meaningful relationship between the~~
23 ~~child and the secondary residential parent.~~

24 ~~5. Whether the cost of transportation is financially~~
25 ~~affordable by one or both parties.~~

26 ~~6. Whether the move is in the best interests of the~~
27 ~~child.~~

28 Section 2. Section 61.13001, Florida Statutes, is
29 created to read:

30 61.13001 Parental relocation with a child.--

31 (1) DEFINITIONS.--As used in this section:

1 (a) "Change of residence address" means the relocation
2 of a child to a primary residence more than 50 miles away from
3 his or her current primary place of residence. However, the
4 relocation of a child's primary residence to a location that
5 is closer to or less than 50 miles from the nonresidential
6 parent is not a change of residence address.

7 (b) "Child" means any person who is under the
8 jurisdiction of a state court pursuant to the Uniform Child
9 Custody Jurisdiction and Enforcement Act or is the subject of
10 any order granting to a parent or other person any right to
11 residential care, custody, or visitation as provided under
12 state law.

13 (c) "Court" means the circuit court in an original
14 proceeding which has proper venue and jurisdiction in
15 accordance with the Uniform Child Custody Jurisdiction and
16 Enforcement Act, the circuit court in the county in which
17 either parent and the child reside, or the circuit court in
18 which the original action was adjudicated.

19 (d) "Other person" means an individual who is not the
20 parent and who, by court order, maintains the primary
21 residence of a child or has visitation rights with a child.

22 (e) "Parent" means any person so named by court order
23 or express written agreement that is subject to court
24 enforcement or a person reflected as a parent on a birth
25 certificate and in whose home a child maintains a primary or
26 secondary residence.

27 (f) "Primary residential parent" means a person so
28 designated by court order or by an express written agreement
29 that is subject to court enforcement or a person seeking such
30 a designation, or, when neither parent has been designated as
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1 primary residential parent, the person seeking to relocate
2 with a child.

3 (g) "Principal or primary residence of a child" means
4 the home of the designated primary residential parent. For
5 purposes of this section only, when rotating custody is in
6 effect, each parent shall be considered to be the primary
7 residential parent.

8 (h) "Relocation" means a change of residence address
9 of a child for a period of 60 consecutive days or more but
10 does not include a temporary absence from the principal
11 residence for purposes of vacation, education, or the
12 provision of health care for the child.

13 (2) NOTICE OF INTENT TO RELOCATE WITH A CHILD.--A
14 parent who is entitled to primary residence of the child shall
15 notify the other parent, and every other person entitled to
16 visitation with the child, of a proposed relocation of the
17 child's principal residence. The form of notice shall be
18 according to this section:

19 (a) The parent seeking to relocate shall prepare a
20 Notice of Intent to Relocate. The following information must
21 be included with the Notice of Intent to Relocate and signed
22 under oath under penalty of perjury:

23 1. A description of the location of the intended new
24 residence, including the state, city, and specific physical
25 address, if known.

26 2. The mailing address of the intended new residence,
27 if not the same as the physical address, if known.

28 3. The home telephone number of the intended new
29 residence, if known.

30 4. The date of the intended move or proposed
31 relocation.

1 5. A detailed statement of the specific reasons for
2 the proposed relocation of the child. If one of the reasons is
3 based upon a job offer which has been reduced to writing, that
4 written job offer must be attached to the Notice of Intent to
5 Relocate.

6 6. A proposal for a revised postrelocation schedule of
7 visitation with the child.

8 7. Substantially the following statement, in all
9 capital letters and in the same size type, or larger, as the
10 type in the remainder of the notice:

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12 AN OBJECTION TO THE PROPOSED RELOCATION MUST BE MADE IN
13 WRITING, FILED WITH THE COURT, AND SERVED ON THE PARENT OR
14 OTHER PERSON SEEKING TO RELOCATE WITHIN 30 DAYS AFTER SERVICE
15 OF THIS NOTICE OF INTENT TO RELOCATE. IF YOU FAIL TO TIMELY
16 OBJECT TO THE RELOCATION, THE RELOCATION WILL BE ALLOWED
17 WITHOUT FURTHER NOTICE AND WITHOUT A HEARING.

18 8. The mailing address of the parent or other person
19 seeking to relocate to which the objection filed under
20 subsection (4) to the Notice of Intent to Relocate should be
21 sent.

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23 The contents of the Notice of Intent to Relocate are not
24 privileged. For purposes of encouraging amicable resolution of
25 the relocation issue, a copy of the Notice of Intent to
26 Relocate shall initially not be filed with the court but
27 instead served upon the nonrelocating parent, other person,
28 and every other person entitled to visitation with the child,
29 and the original thereof shall be maintained by the parent or
30 other person seeking to relocate.

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1 (b) The parent seeking to relocate shall also prepare
2 a Certificate of Filing Notice of Intent to Relocate. The
3 certificate shall certify the date that the Notice of Intent
4 to Relocate was served on the other parent and on every other
5 person entitled to visitation with the child.

6 (c) The Notice of Intent to Relocate, and the
7 Certificate of Filing Notice of Intent to Relocate, shall be
8 served on the other parent and on every other person entitled
9 to visitation with the child. If there is a pending court
10 action regarding the child, service of process may be
11 according to court rule. Otherwise, service of process shall
12 be according to chapters 48 and 49.

13 (d) A person giving notice of a proposed relocation or
14 change of residence address under this section has a
15 continuing duty to provide current and updated information
16 required by this section when that information becomes known.

17 (e) If the other parent and any other person entitled
18 to visitation with the child fails to timely file an
19 objection, the relocation shall be allowed and the court shall
20 enter an order. If an objection is timely filed, the burden
21 shifts to the parent or person seeking to relocate to initiate
22 court proceedings to obtain court permission to relocate prior
23 to doing so.

24 (f) The act of relocating the child after failure to
25 comply with the notice of intent to relocate procedure
26 described in this subsection subjects the party in violation
27 thereof to contempt and other proceedings to compel the return
28 of the child and may be taken into account by the court in any
29 initial or postjudgment action seeking a determination or
30 modification of residence, custody, or visitation with the
31 child as:

1 1. A factor in making a determination regarding the
2 relocation of a child.

3 2. A factor in determining whether residence or
4 contact, access, visitation, and time-sharing arrangements
5 should be modified.

6 3. A basis for ordering the temporary or permanent
7 return of the child.

8 4. Sufficient cause to order the parent or other
9 person seeking to relocate the child to pay reasonable
10 expenses and attorney's fees incurred by the party objecting
11 to the relocation.

12 5. For the award of reasonable attorney's fees and
13 costs, including interim travel expenses incident to
14 visitation or securing the return of the child.

15 (3) APPLICABILITY OF PUBLIC RECORDS LAW.--If the
16 parent or other person seeking to relocate a child, or the
17 child, is entitled to prevent disclosure of location
18 information under any public records exemption applicable to
19 that person, the court may enter any order necessary to modify
20 the disclosure requirements of this section in compliance with
21 the public records exemption.

22 (4) CONTENT OF OBJECTION TO RELOCATION.--An objection
23 seeking to prevent the relocation of a child shall be verified
24 and served within 30 days after service of the Notice of
25 Intent to Relocate. The objection shall include the specific
26 factual basis supporting the reasons for seeking a prohibition
27 of the relocation, including a statement of the amount of
28 participation or involvement the objecting party currently has
29 or has had in the life of the child and the existence of any
30 court order conflicting with this section.

31 (5) TEMPORARY ORDER.--

1 (a) The court may grant a temporary order restraining
2 the relocation of a child or ordering the return of the child,
3 if a relocation has previously taken place, or order other
4 appropriate remedial relief, if the court finds:

5 1. The required notice of a proposed relocation of a
6 child was not provided in a timely manner.

7 2. The child already has been relocated without notice
8 or written agreement of the parties or without court approval.

9 3. From an examination of the evidence presented at
10 the preliminary hearing that there is a likelihood that upon
11 final hearing the court will not approve the relocation of the
12 primary residence of the child.

13 (b) The court may grant a temporary order permitting
14 the relocation of the child pending final hearing if the
15 court:

16 1. Finds that the required Notice of Intent to
17 Relocate was provided in a timely manner.

18 2. Finds from an examination of the evidence presented
19 at the preliminary hearing that there is a likelihood that on
20 final hearing the court will approve the relocation of the
21 primary residence of the child, which findings must be
22 supported by the same factual basis as would be necessary to
23 support the permitting of relocation in a final judgment.

24 (c) If the court has issued a temporary order
25 authorizing a party seeking to relocate or move a child before
26 a final judgment is rendered, the court may not give any
27 weight to the temporary relocation as a factor in reaching its
28 final decision.

29 (d) If temporary relocation of a child is permitted,
30 the court may require the person relocating the child to
31 provide reasonable security, financial or otherwise, and

1 guarantee that the court-ordered contact with the child will
2 not be interrupted or interfered with by the relocating party.

3 (6) NO PRESUMPTION; FACTORS TO DETERMINE CONTESTED
4 RELOCATION.--No presumption shall arise in favor of or against
5 a request to relocate with the child when a primary
6 residential parent seeks to move the child and the move will
7 materially affect the current schedule of contact, access, and
8 time-sharing with the nonrelocating parent or other person. In
9 reaching its decision regarding a proposed temporary or
10 permanent relocation, the court shall evaluate all of the
11 following factors:

12 (a) The nature, quality, extent of involvement, and
13 duration of the child's relationship with the parent proposing
14 to relocate with the child and with the nonrelocating parent,
15 other persons, siblings, half-siblings, and other significant
16 persons in the child's life.

17 (b) The age and developmental stage of the child, the
18 needs of the child, and the likely impact the relocation will
19 have on the child's physical, educational, and emotional
20 development, taking into consideration any special needs of
21 the child.

22 (c) The feasibility of preserving the relationship
23 between the nonrelocating parent or other person and the child
24 through substitute arrangements that take into consideration
25 the logistics of contact, access, visitation, and time
26 sharing, as well as the financial circumstances of the
27 parties; whether those factors are sufficient to foster a
28 continuing meaningful relationship between the child and the
29 nonrelocating parent or other person; and the likelihood of
30 compliance with the substitute arrangements by the relocating
31 parent once he or she is out of the jurisdiction of the court.

1 (d) The child's preference, taking into consideration
2 the age and maturity of the child.

3 (e) Whether the relocation will enhance the general
4 quality of life for both the parent seeking the relocation and
5 the child, including, but not limited to, financial or
6 emotional benefits or educational opportunities.

7 (f) The reasons of each parent or other person for
8 seeking or opposing the relocation.

9 (g) The current employment and economic circumstances
10 of each parent or other person and whether or not the proposed
11 relocation is necessary to improve the economic circumstances
12 of the parent or other person seeking relocation of the child.

13 (h) That the relocation is sought in good faith and
14 the extent to which the objecting parent has fulfilled his or
15 her financial obligations to the parent or other person
16 seeking relocation, including child support, spousal support,
17 and marital property and marital debt obligations.

18 (i) The career and other opportunities available to
19 the objecting parent or objecting other person if the
20 relocation occurs.

21 (j) A history of substance abuse or domestic violence
22 as defined in s. 741.28 or which meets the criteria of s.
23 39.806(1)(d) by either parent, including a consideration of
24 the severity of such conduct and the failure or success of any
25 attempts at rehabilitation.

26 (k) Any other factor affecting the best interest of
27 the child or as set forth in s. 61.13.

28 (7) BURDEN OF PROOF.--The parent or other person
29 wishing to relocate has the burden of proof if an objection is
30 filed and must then initiate a proceeding seeking court
31 permission for relocation. The initial burden is on the parent

1 or person wishing to relocate to prove by a preponderance of
2 the evidence that relocation is in the best interest of the
3 child. If that burden of proof is met, the burden shifts to
4 the nonrelocating parent or other person to show by a
5 preponderance of the evidence that the proposed relocation is
6 not in the best interest of the child.

7 (8) ORDER REGARDING RELOCATION.--If relocation is
8 permitted:

9 (a) The court may, in its discretion, order contact
10 with the nonrelocating parent, including access, visitation,
11 time sharing, telephone, Internet, web-cam, and other
12 arrangements sufficient to ensure that the child has frequent,
13 continuing, and meaningful contact, access, visitation, and
14 time sharing with the nonrelocating parent or other persons,
15 if contact is financially affordable and in the best interest
16 of the child.

17 (b) If applicable, the court shall specify how the
18 transportation costs will be allocated between the parents and
19 other persons entitled to contact, access, visitation, and
20 time sharing and may adjust the child support award, as
21 appropriate, considering the costs of transportation and the
22 respective net incomes of the parents in accordance with state
23 child support guidelines.

24 (9) PRIORITY FOR HEARING OR TRIAL.--An evidentiary
25 hearing or nonjury trial on a pleading seeking temporary or
26 permanent relief filed pursuant to this section shall be
27 accorded priority on the court's calendar.

28 (10) APPLICABILITY.--

29 (a) The provisions of this section apply:
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1 1. Before July 1, 2006, if the existing order
2 providing for custody, primary residence, and visitation does
3 not expressly govern the relocation of the child.

4 2. To an order, whether temporary or permanent,
5 regarding residence of a child or visitation with a child
6 issued after July 1, 2006.

7 3. To any relocation or proposed relocation, whether
8 permanent or temporary, of a child during any proceeding
9 pending before July 1, 2006, wherein residence of or
10 visitation with a child is an issue.

11 (b) To the extent that a provision of this section
12 conflicts with an order, this section does not apply to the
13 extent of such conflict.

14 Section 3. This act shall take effect July 1, 2006.
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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 2184

4 The committee substitute makes the following substantial
5 changes to the underlying bill:

6 -- Repeals s. 61.13(2)(d), F.S., which provides the existing
7 factors for evaluating a relocation with a child;

8 -- Clarifies the definition of the term "change of residence
9 address";

10 -- Changes the term "person entitled to be the primary
11 residential parent of a child" to "primary residential
12 parent";

13 -- Revises the definition of the term "relocation" to
14 include the term "change of residence address";

15 -- Deletes provisions that would have required a Notice of
16 Intent to Relocate to be filed with a court at least 45
17 days before relocation;

18 -- Requires a court to enter an order approving a relocation
19 if no objection to the relocation is filed;

20 -- Provides for the confidentiality of location information
21 if that information is confidential under public records
22 law;

23 -- Deletes provisions on disclosure requirements involving
24 domestic violence; and

25 -- Revises the applicability provisions to apply to orders
26 rather than agreements.

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